

AMENDED IN ASSEMBLY JUNE 13, 2007

AMENDED IN SENATE APRIL 17, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 388

Introduced by Senator Corbett

February 21, 2007

An act to add Part 2.7 (commencing with Section 60) to Division 1 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as amended, Corbett. Privacy: radio frequency identification tags.

Existing law provides that all persons are by nature free and independent and have certain inalienable rights, such as pursuing and obtaining privacy. Existing law accords every person the right of protection from injury to his or her personal relations, subject to the qualifications and restrictions provided by law.

This bill would require any private entity that sells, furnishes, or otherwise issues a card or other item containing a radio frequency identification tag, as defined, that may be scanned for personal information, as defined, to provide specified information to the recipient, *with a specified application under emergency circumstances*. The bill would authorize an aggrieved party to bring an action against a violator for nominal or actual damages, as specified, and would require that attorney's fees and costs be awarded to a prevailing party.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Part 2.7 (commencing with Section 60) is added to Division 1 of the Civil Code, to read:

PART 2.7. RADIO FREQUENCY IDENTIFICATION (RFID)
PRIVACY

60. (a) Any private entity that sells, furnishes, or otherwise issues a card or other item containing a radio frequency identification (RFID) tag that is capable of being scanned for the recipient cardholder's personal information shall inform the recipient of the card or item of all of the following:

(1) The information that is transmitted to the RFID scanner upon the scanning of the tag.

(2) A general statement of the security measures, such as authentication or encryption, used by the card or item to safeguard information.

(3) Steps the recipient may take to prevent unauthorized access or scanning of information contained on the card or item.

(b) For purposes of subdivision (a), "personal information" includes any of the following data elements to the extent that information is used alone or in conjunction with any other information used to identify an individual:

(1) First or last name.

(2) Address.

(3) Telephone number.

(4) E-mail, Internet Protocol, or Web site address.

(5) Date of birth.

(6) Driver's license number or California identification card number.

(7) Any unique personal identifier number contained or encoded on a driver's license or identification card issued pursuant to Section 13000 of the Vehicle Code.

(8) Bank, credit card, or other financial institution account number.

(9) Any unique personal identifier contained or encoded on a health insurance, health benefit, or benefit card or record issued in conjunction with any government-supported aid program.

(10) Religion.

- 1 (11) Ethnicity or nationality.
- 2 (12) Photograph.
- 3 (13) Fingerprint or other biometric identifier.
- 4 (14) Social security number.
- 5 (15) Any unique personal identifier.

6 *(c) In the case of a medical emergency during which a card or*
7 *item containing a RFID tag is furnished or issued, the disclosure*
8 *required pursuant to subdivision (a) shall be provided no later*
9 *than a reasonable time after the cessation of the emergency.*

10 65. In addition to any other remedies available at law, a
11 recipient cardholder may bring an action against any private entity
12 in violation of this part for either or both of the following:

- 13 (a) Nominal damages of one thousand dollars (\$1,000).
- 14 (b) The amount of actual damages sustained, if any.

15 66. A prevailing plaintiff in an action commenced under this
16 part shall be awarded his or her reasonable attorney's fees and
17 costs.